United Nations A/HRC/37/33

General Assembly

Distr.: General
21 November 2017

Original: English

Human Rights Council
Thirty-seventh session
26 February – 23 March 2018
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Protecting the rights of the child in humanitarian situations

Report of the United Nations High Commissioner for Human Rights

Summary

In the present report, the United Nations High Commissioner for Human Rights describes the scale and impact of humanitarian situations on children and addresses the main challenges they face, focusing on the importance of child protection and the implementation of the rights to health and to education during emergency situations. He makes a number of recommendations on ensuring that children are put at the centre of humanitarian response and assistance.

GE.17-20674(E)

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I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to its resolution 34/16, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on the theme of protecting the rights of the child in humanitarian situations, in close cooperation with all relevant stakeholders, including States, the United Nations Children's Fund (UNICEF), other relevant United Nations bodies and agencies, the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed Conflict, relevant special procedure mandate holders, regional organizations and human rights bodies, national human rights institutions and civil society, including children themselves, and to present it to the Council at its thirty-seventh session, with a view to providing information for the annual day of discussion on the rights of the child.

2. Pursuant to the request of the Human Rights Council, OHCHR solicited contributions and received a total of 39 responses from States, national human rights institutions, civil society organizations and other stakeholders.

II. Humanitarian situations: terminology, scale and impact on children

3. In the UNICEF *Core Commitments for Children in Humanitarian Action*, a humanitarian situation is defined as "any circumstance where humanitarian needs are sufficiently large and complex to require significant external assistance and resources, and where a multi-sectoral response is needed, with the engagement of a wide range of international humanitarian actors." For the purposes of the present report, the term "humanitarian situation" is understood in a broader sense, and includes complex emergencies and disasters. It also encompasses the terms "humanitarian crisis" and "emergency", which include events or series of events that constitute a critical threat to the health, safety, security or well-being of a community or other large group of people, for example, as a result of armed conflict, situations of violence and insecurity, or natural or human-made disasters.

4. In 2016, 43 million children in 63 countries required humanitarian assistance as a result of complex emergencies and natural disasters.[1] In 2017, children have been affected by humanitarian situations around the globe, such as by floods in India, Nepal, Bangladesh and Sierra Leone, the earthquake in Mexico, the hurricanes affecting the Caribbean and the United States of America, and a number of situations of political and economic instability in all regions of the world that have forced children to migrate. Nearly a quarter of the world's school-aged children live in countries affected by a humanitarian crisis, and children in these countries account for 43 per cent of all out-of-school children at primary and lower-secondary levels.[2] Children also make up nearly half of the world's displaced people and more than half of all refugees.[3] This status can affect them for their entire childhood – with people remaining refugees for 17 years on average.[4]

5. In addition to being affected by humanitarian situations, children are particularly susceptible to their impact. Children are especially vulnerable to human rights violations committed in humanitarian situations, such as the deprivation of health care and education, forced displacement, the separation of children from their families, abduction and trafficking, their recruitment and use by armed forces or groups, and sexual abuse and

[1] UNICEF, *Humanitarian Action for Children*, January 2016, p. 5.
[2] UNICEF, *Children in Humanitarian Crises: What Business Can Do*, September 2016, p. 10.
[3] UNICEF, *Children in Crisis: What Children Need from the World Humanitarian Summit*, 2016, p. 1.
[4] UNICEF, *Children in Humanitarian Crises* (see footnote 2), p. 10.

exploitation. These factors can also have a knock-on effect, such as increases in child labour and the incidence of family violence and of harmful practices against children.

6. Moreover, lack of humanitarian access – including by obstructing the free passage or timely delivery of assistance to children in need, or deliberate attacks against humanitarian workers – is one of the main challenges posed in protecting children's rights in humanitarian situations. The denial of humanitarian access is prohibited under the fourth Geneva Convention and the additional protocols thereto, and has been identified by the Security Council as one of the six grave violations affecting children in times of war.

7. Protecting children's rights in humanitarian situations goes beyond the immediate response to a crisis and meeting short-term needs. It involves strengthening risk reduction, capacity-building and preparedness in order to reduce the impact of situations when they are committed, as well as assisting with recovery, and re-building resilient communities to deliver long-term solutions.

8. According to the 2030 Agenda for Sustainable Development, global health threats, more frequent and intense natural disasters, spiralling conflict, violent extremism, terrorism and related humanitarian crises and the forced displacement of people threaten to reverse much of the development progress made in recent decades. Member States resolved to take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, to strengthen support and to meet the special needs of people living in areas affected by complex humanitarian emergencies. In order to achieve these goals, it is vital that the most vulnerable in society, including those in crisis, are given special priority.

9. Furthermore, in the New York Declaration for Refugees and Migrants,[1] Heads of States and Government acknowledged that global migration was often linked to humanitarian situations that called for global approaches and solutions, and pledged to ensure that migration was integrated into humanitarian, peacebuilding and human rights policies and programmes. They also recognized the particular vulnerability of children in the context of migration, and undertook to protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their migration status, giving primary consideration at all times to the best interests of the child and paying particular attention to the protection of unaccompanied children and those separated from their families.

III. The rights of the child in humanitarian situations: international legal standards

10. International human rights law, including the Convention on the Rights of the Child and the optional protocols thereto, applies at all times: in peacetime, in times of conflict, and in emergencies. In this regard, it is important to note that humanitarian situations not only generate new threats to children's rights, but also exacerbate existing ones. Humanitarian situations compromise the effective enjoyment of the rights enshrined in the Convention, including the rights to life, survival and development, family relations and not to be separated from one's parents against one's will, the highest attainable standard of health, an adequate standard of living, education, freedom from any form of violence or exploitation, and recreation and play.

11. Where a humanitarian situation involves armed conflict, the Convention on the Rights of the Child contains specific provisions for the protection of children's rights. Article 38 of the Convention requires that States ensure the protection and care of children affected by armed conflict, and that rules of international humanitarian law are respected, while the Optional Protocol to the Convention on the involvement of children in armed conflict requires States to take measures to ensure that children under 18 do not face

[1] General Assembly resolution 71/1

compulsory recruitment, nor take direct part in hostilities. Moreover, where a child has been displaced from his or her country of origin as a result of a humanitarian situation, article 22 provides that children seeking refugee status must receive appropriate protection and humanitarian assistance. Where such children are unaccompanied, they must be assisted in tracing members of their family in order to achieve reunification, where possible.

12. The above-mentioned articles should be read in conjunction with the norms set out in both international humanitarian law and international refugee law. International humanitarian law requires States to accord children special respect and care, and to give them preferential treatment. Unaccompanied and separated children should be identified, and family reunification pursued. International refugee law recommends that States take measures necessary to protect refugees who are minors, and particularly unaccompanied children.

13. The impact that humanitarian situations and emergencies have on children's lives, and on the enjoyment of their rights, is acknowledged regularly by the Committee on the Rights of the Child in its concluding observations, as well as in its general comments Nos. 1 (education), No. 6 (unaccompanied and separated children outside their country of origin), No. 11 (indigenous children), No. 12 (right of the child to be heard), No. 15 (health), No. 16 (impact of business on children's rights), No. 17 (rest, leisure and play) and No. 20 (rights in adolescence), and in joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child (human rights of children in the context of international migration), to be read in conjunction with joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child (State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return).

A. Equality and non-discrimination

14. According to article 2 of the Convention on the Rights of the Child, the obligations of the State under the Convention apply to each child within the State's territory and to all children subject to its jurisdiction. The Committee on the Rights of the Child clarified in its general comment 6 (2005) that State obligations cannot be arbitrarily and unilaterally curtailed either by excluding zones or areas from a State's territory or by defining particular zones or areas as not, or only partly, under the jurisdiction of the State. Moreover, the obligations of the State under the Convention apply within the borders of the State, including with respect to those children who come under the State's jurisdiction while attempting to enter the country's territory. The rights stipulated in the Convention therefore extend not only to children who are citizens of a State party but also to all children within the State party's jurisdiction – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness.

15. In responding to humanitarian situations, as well as in planning and recovery efforts, States must, in accordance with article 2, ensure that all children have equal opportunities for the realization of their rights, without discrimination of any kind. During periods of instability, the most vulnerable in society find themselves in an even more precarious situation. Emergencies can further marginalize those already at risk of discrimination, and existing patterns of discrimination are often amplified.[*] Children who are particularly vulnerable to rights violations in humanitarian situations include children in extreme poverty, migrant children, internally displaced and refugee children, children in street situations, indigenous children, children belonging to religious and/or ethnic minorities, and separated and unaccompanied children.

[*] Child Protection Working Group, *Minimum Standards for Child Protection in Humanitarian Action*, Global Protection Cluster, p. 15.

16. In particular, situations of crisis can exacerbate gender inequalities, which have been linked to higher rates of mortality from natural disasters among women and girls. The security and bodily integrity of girls can be threatened by displacement, and evacuation to shelters lacking safe facilities for them has been shown to heighten the risks of sexual harassment, violence and human trafficking (A/HRC/35/13, para. 22).

17. In addition, emergencies disproportionately affect persons with disabilities. Children with disabilities may suffer higher rates of abuse, neglect and abandonment in emergencies, while programme assistance, adequate shelter, communication and means of transportation tend to be inaccessible, resulting in violations of their rights. Insufficient attention paid to accessibility considerations in evacuation, response and relief efforts renders children with disabilities particularly susceptible to injury and disease. Barriers to access to food, drinking water and medical relief can worsen children's health problems and exacerbate the effects of children's disabilities.

B. Best interests of the child

18. A rights-based approach should always underpin the planning and execution of responses to humanitarian situations. Article 3 of the Convention on the Rights of the Child requires the best interests of children to be a primary consideration in all decision-making concerning them; for this reason, they should constitute a guiding principle in all actions taken by States, international organizations, non-governmental organizations and private actors. According to the Committee on the Rights of the Child, the expression "primary consideration" means that the child's best interests should not be considered on the same level as other considerations. Such a clear position is justified by the special situation of the child, characterized by dependency, maturity, legal status, and often voicelessness. Children have fewer possibilities than adults to make a case for their own interests, while those involved in decisions affecting children should be aware of their interests.[7] Impact assessments should be conducted to identify the likely impact of decisions on children's rights, and to determine the extent to which the best interests of the child have been taken into account in decision-making.

C. Survival and development

19. Children are among the persons most vulnerable to danger and injury in emergencies; in fact, children in countries affected by humanitarian emergencies account for nearly half of all under-5 deaths.[8] In humanitarian situations, children's surroundings often change rapidly, introducing new risks into their environments, and families may be forced to move to areas more exposed to hazards. Moreover, basic services are often destroyed, and systems previously in place to protect children are compromised.

20. In humanitarian situations involving armed conflict, children are exposed to even greater risks. In 2016, more than 8,000 children were killed or maimed in conflict situations. This included 3,512 children killed or maimed in Afghanistan, the largest number since the United Nations began to document civilian casualties in 2009, and an increase of 24 per cent over the previous year. At least 1,340 children were killed and maimed in Yemen, and 1,299 in the Syrian Arab Republic (see A/70/836-S/2016/360 and A/72/361-S/2017/821).

21. Article 6 of the Convention on the Rights of the Child not only requires States parties to recognize the inherent right to life but also to ensure the survival and development of the child. The right to survival and development goes beyond a child's physical needs and protection. Humanitarian situations affect mental, social and environmental development, as well as physical well-being. Children who have

[7] Committee on the Rights of the Child general comment No. 14 (2013), para. 37.

[8] UNICEF, *Children in Humanitarian Crises* (see footnote 2), p. 10.

experienced stressful situations may show changes in behaviour, emotions and social relations. In this respect, child-friendly spaces, where children can play and have access to recreational, leisure and learning activities, should be created, even in humanitarian situations. Such nurturing environments can provide educational and psychosocial support, and help to restore a sense of normality and continuity for children.

D. Participation

22. According to article 12 of the Convention on the Rights of the Child, all children have the right to be heard and to participate in decision-making that affects their lives. In its general comment No. 12 (2009), the Committee on the Rights of the Child stated that the right embodied in article 12 does not cease in situations of crisis or in their aftermath.

23. Children can play an important role in the response to an emergency. Humanitarian efforts are more effective, sustainable and efficient when children are involved in their assessment, design, implementation and monitoring. Children are active participants in their families and communities, and should be seen as agents of change rather than being relegated to passive or dependent roles. A survey conducted in the context of the World Humanitarian Summit found that, in the Syrian Arab Republic, 83 per cent of child participants would participate in relief efforts if given the chance.[9]

24. The way children highlight or prioritize needs and risks is different to that used by adults, and their participation is a vital means of ensuring accountability and effectiveness. In its general comment No. 12, the Committee on the Rights of the Child pointed out that participation also helps children to regain control over their lives, contributes to their rehabilitation and gives them a sense of identity. Children should play an active role not only in capacity-building and preparedness but also during humanitarian responses, and in post-emergency reconstruction and post-conflict resolution processes. Their views should be sought in the assessment, design, implementation, monitoring and evaluation of programmes.

25. The participation of children cannot be assured in a vacuum; it requires time to build mutual trust and confidence among children, especially those who have been marginalized, and two-way skill development. Children need to be supported in the development of skills required to work together. As the International Movement ATD Fourth World pointed out in a submission to OHCHR, children might not be used to having their views heeded, and need support in developing the tools to analyse their rights and assume responsibilities.

26. A recent report commissioned by the World Humanitarian Summit Advisory Group on Children found that children in various emergency contexts felt frustrated at not being allowed to help or contribute. They also indicated that their main priorities during emergency situations were education and protection.[10]

IV. Challenges for children in humanitarian situations

A. Separation from families

27. Humanitarian situations increase the likelihood of children becoming separated from their families, and living unaccompanied. Such children are among the most vulnerable of all those affected by emergencies, given that they have lost the care and protection of their caregivers. In a submission to OHCHR, the Refugee Rights Data Project explained that separated and unaccompanied children may assume adult roles, and be burdened with responsibilities beyond their age; they are thus vulnerable to physical and psychological

[9] World Humanitarian Summit Advisory Group on Children, *Putting Children at the Heart of the World Humanitarian Summit*, 2016.

[10] Ibid.

harm, neglect, abuse, recruitment into armed forces, child trafficking, forced and child marriage, illegal adoption, and sexual and other forms of exploitation (see also A/72/164, paras. 24-45).

28. Separation may be an unintentional result of a humanitarian situation – for example, where family members become separated while fleeing from danger, while crossing international borders or during evacuation. In situations of armed violence, abduction of children by parties to the conflict is one of the main reasons for separation. Similarly, in the context of migration, unaccompanied or separated children are at a heightened risk of trafficking and exploitation. On the other hand, separation may be a deliberate decision made by parents or caregivers because they lack the means to care for their children, or where residential care facilities are able to provide better care than the family.[11] According to the Inter-agency Guiding Principles on Unaccompanied and Separated Children issued by the International Committee of the Red Cross in 2004, the risk of deliberate separation can be mitigated by giving priority to the protection of and assistance for families, to enable them to meet the needs of the children in their care, while ensuring that all households have access to basic supplies and services (see also A/HRC/19/63, paras. 51-61).

29. In times of humanitarian crisis, it is vital that children be provided with interim care, with the ultimate aim of reunification with their families and caregivers as quickly as possible (A/72/164, paras. 54-58). Family tracing should be the immediate priority, and no long-term care arrangements, such as domestic or intercountry adoption, should be made until it is clear that there is no possibility of successful tracing and reunification.[12]

30. States should take steps to prevent family separation in humanitarian situations. Families should be informed of measures that they can take in emergencies to minimize the risk of their children becoming separated. In the case of infants and small children, parents and caregivers should teach them their name, address and details of where they come from in order to facilitate tracing should they become separated. Whenever possible, children should be evacuated from their place of residence together with adult family members. Evacuating children without family members should be a measure of last resort, taken only after careful determination that protection and assistance cannot be assured and that evacuation of the entire family is not feasible.

B. Violence and exploitation

1. Sexual violence and exploitation

31. Children are exposed to a wide range of risks in humanitarian situations, and child protection, namely the prevention of exploitation, violence and abuse, must be an immediate priority and given equal importance as other areas of humanitarian action, such as the provision of food, emergency shelter and clean water. Although States have the primary responsibility to protect children in humanitarian situations, they often lack the technical and financial resources necessary to fulfil it. An effective response requires a comprehensive, multi-sectoral approach that includes not only the provision of services but also ensures accountability through legal reform, the training of security forces, capacity-building of child protection actors, and public awareness-raising.

32. In the aftermath of an emergency situation, the risk of sexual exploitation may increase as a result of reduced protection mechanisms, the collapse of the rule of law, or greater social or economic pressure.[13] This may also be compounded by the degree of

[11] Global Protection Cluster, "Strengthening Protection in Natural Disaster Response: Children" (working document).

[12] Office of the United Nations High Commissioner for Refugees (UNHCR), Policy on Adoption of Refugee Children, August 1995.

[13] Child Protection Working Group, *A Matter of Life and Death: Child protection programming's essential role in ensuring child wellbeing and survival during and after emergencies*, Global Protection Cluster, 2015, sect. 3.3.

children's dependence on others, their restricted power in decision-making, and their vulnerability to manipulation and exploitation.[14]

33. Armed conflict puts women and children at a heightened risk of sexual violence and exploitation either as the result of social or legal breakdown or as a weapon of war. Natural disasters receive less attention with regard to acts of sexual violence, although evidence suggests that its incidence is high also in such situations.[15] The impact of sexual violence and exploitation goes beyond immediate consequences; it may leave survivors with long-lasting trauma, sexually-transmitted diseases or unwanted pregnancies, and they themselves may be ostracized by the community (see A/70/222).

34. Children who have been displaced, are unaccompanied or separated from their families, or are living in poverty are at a particularly high risk of sexual violence. Poverty, hunger and desperation may force children into "survival sex", offering themselves in exchange for food, shelter or protection; for example, displaced children may be vulnerable to demands for sex by camp officials, police officers or military personnel in return for protection.[16] Children may be placed in emergency shelters with unrelated adults and children of the opposite sex, increasing their risk of abuse or exploitation.[17] To prevent such situations, States and humanitarian actors should ensure that separate housing is established for children and that "safe adults" are appointed to supervise and support them. Moreover, child-friendly or safe spaces should be established where children can rest and play with a sense of normality, and receive care and support.[18]

35. States should also establish child-friendly, independent, timely and effective reporting mechanisms, and provide a functioning referral pathway for children and families to follow. According to ECPAT International in its submission to OHCHR, this should be accompanied by the collection of data, in order to gain a better understanding of the scale and scope of sexual exploitation of children in humanitarian situations, which would allow for more targeted prevention and protection approaches. Children and families should also receive education on the prevention of sexual exploitation and abuse, to raise their awareness and to empower children to protect themselves (see also A/HRC/19/63).

2. Harmful practices

36. The incidence and risk of child, early and forced marriage are heightened in humanitarian settings. For example, Girls not Brides, in a submission to OHCHR, showed that, in Yemen, the rate of child marriage had risen to 65 per cent from 50 per cent before the conflict, while in Syrian refugee communities in Jordan, the rate of child marriage almost tripled from 2011 to 2014, from 12 per cent to 32 per cent. Families sometimes resort to this harmful practice as a coping mechanism in times of emergency, as a way to "protect" their daughters from sexual violence, or to free themselves of an economic burden. Other factors include insecurity, gender inequality, increased risks of sexual and gender based violence, breakdown of the rule of law and State authority, the misconception of providing protection through marriage, the use of forced marriage as a tactic in conflict, lack of access to education, the stigma of pregnancy outside marriage, absence of family planning services, disruptions in social networks and routines, increased poverty, and the absence of livelihood opportunities.[19]

37. Patterns of physical violence against children can also be exacerbated in humanitarian situations. Increased strain on families and communities, in conjunction with

[14] Child Protection Working Group, *Minimum Standards for Child Protection* (see footnote 6), p. 91.

[15] Child Protection Working Group, *A Matter of Life and Death* (see footnote 13), sect. 3.3.

[16] UNICEF, *Profiting from abuse: an investigation into the sexual exploitation of our children*, New York, 2001, p. 31.

[17] Ibid.

[18] Global Protection Cluster, *Strengthening Protection in Natural Disaster Response: Children* (see footnote 11).

[19] See Human Rights Council resolution 35/16.

a weakened protective environment around the child, put children at greater risk of domestic violence, physical and sexual abuse, and corporal punishment.

38. States should ensure that they address the underlying factors that make children especially vulnerable to harmful practices and violence, such as poverty, lack of education, gender discrimination, and a lack of physical and material security. In addition, authorities should ensure child and community participation in measures to combat such practices in order to increase the effectiveness of targeted prevention efforts and protection responses.

3. Children and the justice system

39. In humanitarian situations, the number of children in contact with the justice system – as alleged offenders, victims or witnesses – rises dramatically.[20] Where there is a breakdown in law and order, the number of cases of arbitrary arrest or detention of children often increases;[21] as justice systems are weakened, normal rules are often misapplied or unenforced. Children who have been displaced by conflict often face a risk of arbitrary arrest or detention when States criminalize administrative immigration infractions, such as irregular entry or stay. Children migrating owing to a humanitarian situation may also be negatively affected by the criminalization of low-level offences, such as those relating to anti-social behaviour, breaking curfews or survival-related activities, such as begging, stealing, living and working in the streets. Moreover, children who have migrated often face longer periods in detention, as they have fewer relatives or community members who can act to secure their release.[22]

40. On the other hand, displaced communities in humanitarian situations often avoid the formal justice system out of fear of arrest or refoulement. In such cases, they may turn to informal or traditional justice mechanisms[23] that do not always comply with the rights as set out in article 40 of the Convention on the Rights of the Child. Justice programming should therefore be implemented alongside humanitarian relief work in order to mitigate the risks for children in emergencies and to prevent further violations of their rights.[24]

4. Child labour

41. The vulnerability of children to child labour, especially in its worst forms, is heightened in humanitarian situations. This is possible, for example, where educational opportunities are disrupted, livelihoods are lost or families need extra income, or in cases where children become separated from their families and need to find their own income. Moreover, child protection mechanisms previously in place may be eroded or no longer available in times of crisis.

42. Emergencies may increase the incidence of the worst forms of child labour, or even trigger new practices. This may result in children who are already working taking on more hazardous work, or in moves by children to search for work, which may put them at risk of exploitative situations. In this regard, the private sector has an important role to play. Businesses should recognize the heightened risk of violations of human rights in the context of humanitarian situations, and take measures to ensure that children do not engage in hazardous labour in their activities.

C. Access to health

43. According to article 24 of the Convention on the Rights of the Child, States parties to the Convention recognize the right of the child to the enjoyment of the highest attainable

[20] Child Protection Working Group, *Justice for children in humanitarian action*.

[21] Child Protection Working Group, *Minimum Standards for Child Protection* (see footnote 6), p. 128.

[22] Child Protection Working Group, *Justice for children in humanitarian action*.

[23] Ibid.

[24] UN Common Approach to Justice for Children (2008), https://www.un.org/ruleoflaw/blog/document/un-common-approach-to-justice-for-children/.

standard of health, and should strive to ensure that no child is deprived of his or her right of access to health-care services. In humanitarian situations, children are exposed to additional health risks, while existing risks are also heightened; at the same time, the ability to respond to these risks is undermined, as primary health care and infrastructure are compromised, and health systems are eroded. The main causes of child morbidity and mortality in emergencies include injury, diarrheal disease, acute respiratory tract infection, pneumonia, measles, malaria, bacterial infection, and malnutrition.[25] The denial of access to humanitarian assistance can have a significant impact on not only children's right to health but also their right to survival and development.

44. In humanitarian situations, children are particularly vulnerable to undernutrition and micronutrient deficiencies, particularly when they are dependent on others to provide for their needs. They may also suffer from discriminatory access to food, both within the household and in the community. In countries where child malnutrition is already a significant risk factor, even small-scale natural disasters can greatly worsen the health of affected children.[26] Moreover, where families are at risk of, or already suffer from, malnutrition, the children are more like to leave the household either to seek paid work (including hazardous labour) or to secure access to food (for example, by entering alternative care).[27]

45. Following an emergency situation, States should ensure that preventative and curative health services are established as a matter of priority, particularly with regard to illnesses to which children under-5 are most vulnerable, such as pneumonia, diarrhoea, malaria and malnutrition. In this respect, WHO has developed the *Manual for the health care of children in humanitarian emergencies*, a set of guidelines designed to assist in the assessment and management of children in emergency situations, and that can also be used in the training of health-care workers. Furthermore, the Global Strategy for Women's, Children's and Adolescents' Health (2016-2030) recognizes the need to protect the right to health, including in humanitarian and fragile settings.

46. In addition to providing an efficient and effective response to an emergency situation, it is also important to build capacity before a crisis arises through risk assessments and the development of preparedness and response plans. The health impact of humanitarian situations on children can be substantially reduced if authorities and communities are well prepared and able to reduce their vulnerabilities.[28]

47. Safe, age-appropriate water, sanitation and hygiene facilities are vital to ensure children's well-being in humanitarian situations. For example, children who do not feel safe using toilets may resort to risk or harmful behaviours, such as travelling outside of populated areas to defecate or attempting to eat or drink less so as not to need to go to the toilet as often.[29] It is also important that girls have suitable materials for dealing with periods, including at schools so that their access to education is not inhibited.[30]

48. Children require not only physical support, such as food and clean water, but also psychosocial care to prevent and address fear and trauma arising from the emergency or humanitarian situations. They are at risk of mental health problems particularly in humanitarian situations, leading to changes in their behaviour, social relations, emotions and physical reactions. Changes of these types can be the result of primary stressors (such as injuries or exposure to violence) or secondary stressors (for example, disruption of the social fabric of community life, lack of financial support, loss of physical possessions, or

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[25] World Health Organization (WHO), *Manual for the health care of children in humanitarian emergencies*, 2008.

[26] Humanitarian Coalition, "Children and Disaster Relief".

[27] Child Protection Working Group, *Minimum Standards for Child Protection* (see footnote 6), p. 190.

[28] WHO, *Risk reduction and emergency preparedness: WHO six-year strategy for the health sector and community capacity development*, 2007, p. 9.

[29] Child Protection Working Group, *Minimum Standards for Child Protection*, p. 196.

[30] Ibid.

lack of education).[31] Without appropriate intervention, such toxic stress can lead to the development of anxiety, depression or other emotional and behaviour disorders, the impact of which can continue to undermine children's long-term well-being, even after the crisis has passed.[32]

49. In this regard, a child's right to play, as described under article 31 of the Convention on the Rights of the Child, must be emphasized. As the Committee on the Rights of the Child pointed out in its general comment No. 17 (2013), opportunities for play, recreation and cultural activity can play a significant therapeutic and rehabilitative role in helping children to recover a sense of normality and joy after their experience of loss, dislocation and trauma. It can help them to overcome emotional pain and to regain control of their lives, restoring a sense of identity, and helping them come to terms with what has happened to them.

D. Access to education

50. The implementation of the right to education in humanitarian situations, such as complex emergencies or natural disasters, can be challenging. Nonetheless, education is, as laid out in articles 28 and 29 of the Convention on the Rights of the Child, a fundamental right of the child, and can play an essential role during emergencies, because it can strengthen children's resilience and protect them from human rights violations. For children in humanitarian situations, school attendance can act as a preventative measure against abuse, neglect and violence.

51. When in a safe learning environment, a child is less likely to suffer from sexual violence and exploitation, hazardous child labour, abduction or recruitment into armed forces or groups.[33] Moreover, in such an environment, children who need assistance can be identified and supported. Education can strengthen critical survival skills and coping mechanisms, and enable children to make informed decisions about how to survive and care for themselves in dangerous environments. It can mitigate the psychosocial impact of humanitarian situations by providing a sense of normality, routine, stability and structure, and help children who have experienced trauma to reintegrate into their peer group. Education in humanitarian situations should be relevant to the needs of children, but also encourage critical thinking. It should seek to build a culture of safety and resilience, through the empowerment of children in identifying, analysing and monitoring risks, and implementing programmes to mitigate them.[34] Furthermore, a crisis may provide an opportunity to teach all members of a community new skills and values: for example, the importance of inclusive education, participation and tolerance, conflict resolution, human rights, environmental conservation and disaster prevention.[35]

52. The Minimum Standards for Education proposed by the Inter-Agency Network for Education in Emergencies articulate the minimum level of educational quality and access in emergencies through to recovery and aims at enhancing the quality of educational preparedness, response and recovery; increasing access to safe and relevant learning opportunities for all learners, regardless of their age, gender or abilities; and ensuring accountability and coordination in the provision of education in emergencies through to recovery.

53. In the context of armed conflict, schools and universities should not be used by military forces for any purpose in support of their military effort. Educational facilities are, however, often taken over either partially or entirely to be turned into military bases, used as detention facilities, for training fighters, or to store and hide weapons and ammunition.

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[31] Child Protection Working Group, *A Matter of Life and Death* (see footnote 13), sect. 3.4.

[32] Ibid.

[33] See UNICEF, *Keeping Children Safe in Emergencies*, 2016, p. 9.

[34] Inter-Agency Network for Education in Emergencies, *Minimum Standards for Education: Preparedness, Response, Recovery*, 2010, p. 2.

[35] Ibid., p. 3.

and thus deny children their right to education. Using a school for military purposes can also increase the risk of the recruitment of children by armed forces, or may leave children vulnerable to sexual abuse or exploitation. For this reason, the Committee on the Rights of the Child, following its day of general discussion on the right of the right to education in emergency situations, held on 19 September 2008, urged States to ensure that schools were protected from military attacks or seizure by militants, or used as centres for recruitment. To date, 71 States have signed the Safe Schools Declaration, endorsing its accompanying guidelines.

54. Sustainable Development Goal 4 has the aim of ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all, including children in humanitarian situations. In its submission to OHCHR, Child Rights Connect pointed out that fulfilling the right of children to be in school and to learning, in compliance with the Convention on the Rights of the Child and the 2030 Agenda for Sustainable Development, will help to break the cycle of crises and deliver high economic and social returns. Despite the recognition that the right to education in emergencies is essential for all children, education in emergencies continues to be underfunded, receiving less than 2 per cent of humanitarian funding.[16]

55. Education also plays an important role in raising awareness and developing skills that will help children to prepare for humanitarian situations. In its submission to OHCHR, the Government of Australia drew attention to the Australian Curriculum, which incorporates education about natural disasters, their causes and effects, and ways to minimize their impact. Bosnia and Herzegovina, in conjunction with UNICEF, has implemented a project aimed at strengthening the capacity of teaching staff to work with children during disasters in order to improve their safety and security, and to train children and parents in schools to secure their rights in emergencies.

F. Birth registration and data collection

56. Birth registration is an essential tool to protect children in times of emergency. Legal identity provides a degree of protection for children against the risks of illegal adoption and other violations. Lack of a legal identity can on the other hand complicate reunification efforts for separated children, particularly if a child is given a new name. The Birth Registration in Emergencies Toolkit, developed by Plan International,[17] addresses interventions that promote and improve the access of girls and boys to continuous, permanent and non-discriminatory birth registration services in humanitarian situations. The toolkit comprises a step-by-step guide, developed to support the analysis, design and testing of birth registration interventions before, during and after an emergency for a low cost. In situations of emergencies, Plan International has worked with countries to build on and strengthen existing official civil registration and vital statistics systems. This often requires the establishment of mobile registration units for remote, rural or nomadic populations, and the decentralization of services, so they are available at the local level.

57. Decision-making in humanitarian situations must be based on evidence from reliable data, in order to make the best use of resources (A/67/89-E/2012/77, para. 4) The dangers and threats that children face in humanitarian situations, and patterns of vulnerability and discrimination, are often not fully understood owing to a failure to collect reliable information in a timely manner. It is vital that States improve the collection, analysis, dissemination and use of data and statistics, disaggregated by income, sex, age, race, ethnicity, migratory status, disability, geographic location and other relevant characteristics, in order to provide an appropriate response to humanitarian situations. Making data of this type available to partners and the public can help to drive better decision-making; for example, the Kenya Open Data Initiative makes public government datasets accessible to

[16] See Education Cannot Wait, the situation, at www.educationcannotwait.org/the-situation/

[17] See www.brictoolkit.com.

the public, allowing open access to development, demographic and statistical data that could be invaluable in a crisis (para. 21).

58. A robust system of birth registration, maintained throughout the emergency situation, is therefore vital to protect a child's right to a nationality, in accordance with article 7 of the Convention on the Rights of the Child, and prevents statelessness. In doing so, it provides a reliable source of information. Registration documents are needed for access to humanitarian relief, health care, education and other services, and can be crucial for family reunification and for establishing a child's age, which can protect a child from child labour, early and forced marriage, and premature enlistment in armed forces.

V. International cooperation and the role of the private sector

59. Given the fragility of some States affected by humanitarian situations, international assistance and cooperation play an important role, particularly in the initial response. The need for such cooperation is clearly spelled out in both international[58] and regional instruments, and should include cooperation between States, international and regional organizations, and national and international non-governmental organizations. Nonetheless, Governments retain the primary responsibility to respond to their citizens, and to be the lead actor in this regard.

60. The private sector also has an important role to play in responding to humanitarian situations. The Children's Rights and Business Principles, developed by UNICEF, the United Nations Global Compact and Save the Children, set out a framework for businesses to respect children's rights, including in the context of emergencies, by avoiding causing or contributing to the infringement of children's rights in such situations. They also call upon businesses to help to protect children whose rights have been affected by supporting emergency responses and making a positive contribution to peace and development. For example, following the 2004 Indian Ocean tsunami, businesses provided or mobilized $565 million in humanitarian assistance.[59]

61. Businesses operating in humanitarian situations can have a positive impact on children's rights through responsible and context-sensitive core business operations, advocacy and public engagement, partnership and collective action. Their engagement in support of children in humanitarian emergencies can also include business-to-business and business-humanitarian cooperation. In addition, they can take the lead in encouraging others — both States and businesses — to act.[60] For example, Deutsche Post DHL, in conjunction with the Office for the Coordination of Humanitarian Affairs, has helped to develop a database to track in-kind contributions to identify outstanding needs and help to reduce unsolicited donations in humanitarian situations. The company has also worked with the United Nations Development Programme and the Governments of Bangladesh, Indonesia, Lebanon, Nepal and Turkey on "Get airports ready for disasters" projects to prepare airports to receive incoming relief cargo following a natural disaster (A/67/363, para. 44).

62. States are not relieved of their obligations under the Convention on the Rights of the Child and the Optional Protocols thereto when their functions are delegated or outsourced to a private business or non-profit organization.[61] States must require business to undertake rigorous child rights due diligence and child rights impact assessments. This can include a requirement to publish actions taken to ensure that companies' operations do not contribute to serious violations of children's rights, and a prohibition on the sale or transfer

[58] See for example Convention on the Rights of the Child, arts. 4, 24(4) and 28(3); and Committee on the Rights of the Child, general comments No. 5 (2003), paras. 60-62, and No. 19, paras. 35-39.

[59] See Stephen A. Zyck and Randolph Kent, *Humanitarian crises, emergency preparedness and response: the role of business and the private sector* (UKaid, July 2014).

[60] UNICEF, *Children in Humanitarian Crises* (see footnote 2), p. 27.

[61] Committee on the Rights of the Child general comment No. 16 (2013).

of arms and other forms of military assistance when the final destination is a country in which children are known to be, or may potentially be, recruited or used in hostilities.[47]

VI. Conclusions and recommendations

63. It is fundamental that States, in accordance with international human rights law and their obligations under international humanitarian and refugee law, give priority to the rights of children in humanitarian situations.

64. The best interests of the child should be at the forefront of all decision-making processes, and children empowered to participate in the assessment, design, implementation and monitoring of humanitarian assistance activities.

65. In this light, the United Nations High Commissioner for Human Rights recommends that States, in cooperation with international organizations, civil society and the private sector:

(a) Conduct child-focused planning and assess child protection risks when making provisions for emergency preparedness, humanitarian response and assistance;

(b) Ensure that that no child is denied access to humanitarian assistance; States should also ensure the safety of humanitarian personnel, and that humanitarian aid can be delivered without impediment;

(c) Promote child-centred innovation, empowering children to be agents of change and building their resilience through the development of innovative child-centred participatory approaches; children must be involved in their own protection, and supported in developing self-protective skills;

(d) Prioritize the prevention of family separation in humanitarian situations, and ensure prompt family tracing and reunification where it occurs; sufficient resources should be allocated to family reunification procedures to ensure the operational capacity to carry out evaluations in a reasonable time frame and to reduce the overall length of the process. A broad interpretation of family should be adopted, taking into consideration cultural differences and the best interests of the child;

(e) Mainstream protection from sexual exploitation, child, early and forced marriage, and violence against children into emergency and humanitarian responses, and address the underlying factors that make children especially vulnerable to these practices;

(f) Recognize the need for the psychosocial care of children in humanitarian situations, to prevent and address fear and trauma and to help to build their resilience; in particular, where a child has been a victim of violence or exploitation, durable solutions must be adopted to ensure that the child has access to long-term care and protection, including full access to health care, psychosocial support, social services, education, vocational training and life skills education;

(g) Increase and improve the financing for education in emergencies so that children's right to have access to quality education is recognized as a critical part of humanitarian responses. States should also sign the Safe Schools Declaration, and thereby endorse and follow the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict;

(h) Create child-friendly spaces to provide nurturing environments where children have access to play, recreation, leisure and learning activities, and to help to restore a sense of normality and continuity;

[47] Ibid.

(c) Ensure the collection and availability of disaggregated data before, during and after humanitarian situations; this must include the establishment of free and universal birth registration for all children within the State's jurisdiction, including in times of emergency.